

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN FRANCISCO BAY REGION**

CEASE AND DESIST ORDER NO. R2-2007-0063

**REQUIRING BROWNING-FERRIS INDUSTRIES (BFI)
TO CEASE AND DESIST DISCHARGING PARTIALLY-TREATED WASTEWATER
TO WATERS OF THE STATE**

WHEREAS the California Regional Water Quality Control Board, San Francisco Bay Region (hereinafter “Regional Water Board”), finds that:

1. Browning-Ferris Industries (BFI) (hereinafter “Discharger”) owns and operates the Corinda Los Trancos (Ox Mountain) Landfill, located north of Highway 92 and east of Half Moon Bay, San Mateo County. The Ox Mountain Landfill is a Class III municipal refuse disposal site. Such facilities can generate several types of wastewater, including polluted groundwater. To properly manage polluted groundwater, BFI has installed a groundwater extraction and treatment system (the Plant) consisting of two 2,000-pound granular activated carbon filtration units installed in series. The Plant treats only naturally-occurring groundwater that contains pollutants as a result of infiltration into the landfill or contact with the landfill liner system. It has a maximum permitted flow rate of 80 gallons per minute.
2. The Plant discharge has been regulated by waste discharge requirements in Order No. 93-146 (NPDES Permit No. CA0029947).
3. Concurrent with the adoption of this Cease and Desist Order, the Regional Water Board adopted Order No. R2-2007-0062 (hereinafter “Permit”), reissuing waste discharge requirements for the Discharger. The Permit contains prohibitions, limitations, and provisions regulating the discharge. The limitations include those listed in Table 1 below.

Table 1: Permit Effluent Limits

Parameter	Final Effluent Limits in Permit		Monitoring Station
	Average Monthly Effluent Limit (µg/L)	Maximum Daily Effluent Limit (µg/L)	
Copper	5.1	10	EFFL-1
Mercury	0.018	0.046	EFFL-1
Cyanide	4.3	5.2	EFFL-1
Nickel	31	70	EFFL-1
Selenium	4.0	9.0	EFFL-1
Silver	1.0	2.4	EFFL-1
Benzene	--	1.0	EFFL-1
Vinyl Chloride	--	0.5	EFFL-1

4. The Discharger submitted an infeasibility study demonstrating that it cannot comply with several of the effluent limits listed in Table 1. As stated in the Permit findings, the Regional Water Board concurs with the Discharger in the cases of copper, mercury, cyanide, nickel, and silver because the effluent limits are more stringent than the maximum effluent concentrations estimated for flow from the Plant; therefore, the Discharger will discharge waste in violation of the Permit. Additionally, it is infeasible for the Discharger to immediately comply with the Permit's limits on selenium and vinyl chloride; the Discharger violated Order No. 93-146's limits on these pollutants, and the Permit's limits on these pollutants are at least as stringent as in Order No. 93-146.
5. Water Code § 13301 authorizes the Regional Water Board to issue a Cease and Desist Order when it finds that a waste discharge is taking place, or threatening to take place, in violation of Regional Water Board requirements.
6. Because the Discharger will violate or threatens to violate required effluent limits, this Order is necessary to ensure that the Discharger achieves compliance. This Order establishes time schedules for the Discharger to complete necessary investigative, preventive, and remedial actions to address its imminent and threatened violations.
7. The time schedules in this Order are parameter-specific and intended to be as short as possible. They account for the considerable uncertainty in determining effective measures (e.g., treatment plant upgrades) necessary to achieve compliance. The time schedules are based on reasonably expected times needed to identify on-site treatment alternatives, test and select from among alternatives, and construct plant upgrades. The Regional Water Board may wish to revisit these assumptions as more information becomes available.
8. As part of the time schedules to achieve compliance, this Order requires the Discharger to comply with interim effluent limits, where feasible. These interim limits are intended to ensure that the Discharger maintains at least its existing performance while completing all tasks required during the time schedules. The interim limits are based on past performance or limits in previous orders, whichever are more stringent. If based on past performance, the interim limits represent the 99.87th percentile of actual measured discharge concentrations (three standard deviations from the mean). If insufficient monitoring data exist to derive a reliable performance-based limit, and if no previous order contained a limit, then this Order does not establish an interim limit.
9. This Order is an enforcement action and, as such, is exempt from the provisions of the California Environmental Quality Act (Public Resources Code § 21000 et seq.) in accordance with 14 CCR § 15321.
10. The Regional Water Board notified the Discharger and interested persons of its intent to consider adoption of this Cease and Desist Order, and provided an opportunity to submit written comments and appear at a public hearing. The Regional Water Board, in a public hearing, heard and considered all comments.

IT IS HEREBY ORDERED, in accordance with Water Code § 13301, that the Discharger shall cease and desist from discharging and threatening to discharge wastes in violation of its Permit by complying with the following provisions:

1. Prescribed Actions. The Discharger shall comply with the required actions in Table 2 in accordance with the time schedules provided therein to comply with all effluent limits contained in the Permit. All deliverables listed in Table 2 shall be acceptable to the Executive Officer, who will review them for adequacy and compliance with the Table 2 requirements. The Discharger shall further implement

all actions set forth in each deliverable, unless the Executive Officer finds the deliverable to be unacceptable.

2. Exceptions. The following exceptions apply to the parameter-specific time schedules and prescribed actions in Table 2.
 - a. *Mercury.* The mercury-related time schedules and prescribed actions shall cease to be in effect upon the effective date of a permit* that supersedes the mercury limits in the Permit.
3. Reporting Delays. If the Discharger is delayed, interrupted, or prevented from meeting one or more of the time schedules in Table 3 due to circumstances beyond its reasonable control, the Discharger shall promptly notify the Executive Officer, provide the reasons and justification for the delay, and propose time schedules for resolving the delay.

Table 2: Time Schedules and Prescribed Actions

Action	Deadline						
	Mercury	Cyanide	Selenium	Copper	Nickel	Silver	Vinyl Chloride
a. Comply with the following interim effluent limits (at Monitoring Station EFFL-1): Mercury: Maximum daily effluent limit (MDEL) = 2.4 µg/L Cyanide: MDEL = 5.2 µg/L Copper: MDEL = 12 µg/L Nickel: MDEL = 120 µg/L Silver: MDEL = 4 µg/L	Upon the effective date of this Order	Upon the effective date of this Order	Not Applicable	Upon the effective date of this Order	Upon the effective date of this Order	Upon the effective date of this Order	Not Applicable
b. Investigate sampling and analytical protocol, develop comprehensive monitoring plan, and submit report.	Report by March 1, 2008						Not Applicable
c. Implement monitoring plan and submit report on effect of improved sampling and analytical protocol.	Report by March 1, 2009						Not Applicable
d. If data submitted in task c provide evidence that pollutant does not violate or threaten to violate final effluent limits specified in Effluent Limitations and Discharge Specifications A.2 of the Permit, then monitor and submit annual report.	Annually each February 1 in Annual Self-Monitoring Report required by Permit Attachment E, Monitoring and Reporting Program						Not Applicable

* In March 2007, Regional Water Board staff publicly noticed a draft permit that could supersede existing mercury requirements and implement the wasteload allocations for municipal and industrial wastewater discharges identified in the San Francisco Bay Mercury TMDL that the Regional Water Board adopted in August 2006.

Action	Deadline						
	Mercury	Cyanide	Selenium	Copper	Nickel	Silver	Vinyl Chloride
e. For vinyl chloride, and for mercury, cyanide, selenium, copper, nickel, and silver if data submitted in task c or d provide evidence of discharge that is or threatens to be out of compliance (as defined in Section 2.4.5 of the SIP) with final effluent limits, implement pilot studies evaluating improvements to the groundwater treatment system likely to reduce concentrations of cyanide, mercury, selenium, copper, nickel, silver, and/or vinyl chloride from the groundwater treatment system, and therefore to receiving waters.	March 1, 2009	March 1, 2009	March 1, 2009	March 1, 2009	March 1, 2009	March 1, 2009	Upon the effective date of this Order
f. Evaluate and report on the results of the pilot studies in reducing concentrations of cyanide, mercury, selenium, copper, nickel, silver, and/or vinyl chloride from the groundwater treatment system.	March 1, 2010	March 1, 2010	March 1, 2010	March 1, 2010	March 1, 2010	March 1, 2010	September 1, 2008
g. In the event that the pilot studies performed in task e are unsuccessful at bringing the discharge into compliance with final limits for cyanide, mercury, selenium, copper, nickel, silver, and/or vinyl chloride, identify additional treatment technologies and submit a schedule for implementation of additional actions to reduce the concentrations of these pollutants.	March 1, 2010	March 1, 2010	March 1, 2010	March 1, 2010	March 1, 2010	March 1, 2010	September 1, 2008
h. Implement the improvements and modifications to the groundwater treatment system in accordance with the schedule submitted in tasks f and g, as appropriate, and submit annual status reports.	Annually each February 1 in Annual Self-Monitoring Report required by Permit Attachment E, Monitoring and Reporting Program						
i. Submit documentation confirming complete plan implementation and comply with effluent limits in the Permit.	October 28, 2011	October 28, 2011	October 28, 2011	October 28, 2011	October 28, 2011	October 28, 2011	April 28, 2010

4. Consequences of Non-Compliance. If the Discharger fails to comply with the provisions of this Order, the Executive Officer is authorized to take further enforcement action or to request the Attorney General to take appropriate actions against the Discharger in accordance with Water Code §§ 13331, 13350, 13385, and 13386. Such actions may include injunctive and civil remedies, if appropriate, or the issuance of an Administrative Civil Liability Complaint for Regional Water Board consideration.

5. Effective Date. This Order shall be effective on the effective date of the Permit.

I, Bruce H. Wolfe, Executive Officer, do hereby certify the foregoing is a full, true, and correct copy of an Order adopted by the California Regional Water Quality Control Board, San Francisco Bay Region, on August 8, 2007.

BRUCE H. WOLFE
Executive Officer